USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 1/7/2015

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

RICHARD HOWARD BERNSTEIN,

Plaintiff,

-against-

CITY OF NEW YORK, et al.,

Defendants.

----------X

13-CV-04610 (CM)(SN)

REPORT AND RECOMMENDATION

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 2/17/15

SARAH NETBURN, United States Magistrate Judge.

TO THE HONORABLE COLLEEN McMAHON:

Plaintiff Richard H. Bernstein brings this action pursuant to Title II of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12131, *et seq.*, and the Rehabilitation Act of 1973, 29 U.S.C. § 794, *et seq.* ("Rehabilitation Act"), against the City of New York (the "City") and the New York City Department of Transportation ("DOT") (collectively, the "City"). Bernstein alleges that he is blind and visits New York's Central Park (the "Park") from his home in Michigan, and that the Park is not readily accessible to the disabled because of problems related to, among other things, the placement of park signs, the width of sidewalks, the slopes of sidewalks and ramps, divots and holes in the sidewalk, and missing handrails. Bernstein seeks declaratory and injunctive relief.

The City filed a motion to dismiss the amended complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted and for lack of standing. Because I find that Bernstein lacks standing, I recommend that the City's motion to dismiss be GRANTED.

2/19/2015 Magistrate Judge's ... Let the ... objections and agreeing with the ... opinion and ... recommendation, the court adopts the Report as its opinion and dismisses the complaint with prejudice and without leave to amend yet a second time. The Clerk shall enter judgment for defendants and close the file. Colleen McMahon USDJ